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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE JEFFREY T. MILLER)

UNITED STATES OF AMERICA,	)	Case No. 08cr0373-JM
)	
Plaintiff,	)	DATE: March 28, 2008
	)	TIME: 11:00 a.m.
v.)	
	)	<u>NOTICE OF MOTIONS AND MOTIONS TO:</u>
GABINO ALBERTO RODRIGUEZ-LARA,)	
)	
Defendant.	)	(1) DISMISS INDICTMENT BECAUSE
	)	DRUG STATUTES ARE FACIALLY
	)	UNCONSTITUTIONAL;
	)	(2) DISMISS INDICTMENT FOR
	)	FAILURE TO ALLEGE <i>MENS REA</i> ,
	)	AND;
	)	(3) DISMISS THE INDICTMENT DUE
	)	TO A GRAND JURY VIOLATION.

TO: KAREN HEWITT, INTERIM UNITED STATES ATTORNEY, AND
LAWRENCE A CASPER, ASSISTANT UNITED STATES ATTORNEY:

PLEASE TAKE NOTICE that on March 28, 2008, at 11:00 a.m., or as soon thereafter as
counsel may be heard, defendant, Gabino Rodriguez-Lara, by and through his attorneys, Candis
Mitchell, and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the
following motions.

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MOTIONS

Defendant, Gabino Rodriguez-Lara, by and through his attorneys, Candis Mitchell and Federal Defenders of San Diego, Inc., asks this Court pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law, and local rules for an order to:

- (1) Dismiss the Indictment Because Drug Statutes Are Facially Unconstitutional;
- (2) Dismiss the Indictment for Failure to Allege *Mens Rea*, And;
- (3) Dismiss the Indictment Due to a Grand Jury Violation.

These motions are based upon the instant motions and notice of motions, the attached statement of facts and memorandum of points and authorities, and all other materials that may come to this Court's attention at the time of the hearing on these motions.

Respectfully submitted,

Dated: March 14, 2008

s/ Candis Mitchell
CANDIS MITCHELL
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Rodriguez-Lara
Candis_Mitchell@fd.org